

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER  
Chairman  
WILLIAM A. MUNDELL  
Commissioner  
MARC SPITZER  
Commissioner  
MIKE GLEASON  
Commissioner  
KRISTIN K. MAYES  
Commissioner

RECEIVED  
2006 MAY 23 P 12: 37  
AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF  
WEST END WATER COMPANY FOR AN  
EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY.

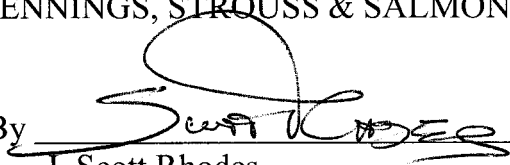
DOCKET NO. W-01157A-05-0706

APPLICANT'S NOTICE OF FILING

At the request of the Staff, the Applicant is filing a copy of its Exhibit A-5 which is a true and correct excerpt from the minutes of the meeting of the Maricopa County Board of Supervisors approving Applicant's request for an extension of its franchise.

Dated this 23<sup>rd</sup> day of May, 2006.

JENNINGS, STROUSS & SALMON, P.L.C.

By   
J. Scott Rhodes  
The Collier Center, 11th Floor  
201 East Washington Street  
Phoenix, Arizona 85004-2385  
Attorneys for Applicant, West End Water  
Company

1 ORIGINAL and 13 copies filed this 23<sup>rd</sup>  
2 day of May, 2006, with:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

7 COPY delivered this 23<sup>rd</sup> day of  
8 May, 2006:

9 Hon. Amy Bjelland  
10 Administrative Law Judge  
11 Hearing Division  
12 ARIZONA CORPORATION COMMISSION  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007

15 Earnest G. Johnson, Director  
16 Utilities Division  
17 ARIZONA CORPORATION COMMISSION  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Christopher Kempley, Chief Counsel  
21 Legal Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 COPY mailed this 23<sup>rd</sup> day of  
26 May, 2006, to:

Joan S. Burke, Esq.  
Danielle D. Janitch, Esq.  
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Facsimile: (602) 640-6074  
Attorneys for City of Surprise

1 City Attorney  
2 CITY OF SURPRISE  
3 12425 West Bell Road  
4 Facsimile: (623) 583-1399  
5 Surprise, Arizona 85374

6 By: Michelle Irons  
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**COUNTY OF MARICOPA***State of Arizona***Office of the Clerk  
Board of Supervisors**

**State of Arizona**            ) ss.  
**County of Maricopa**        )

*I, Lori Pacini, Deputy Clerk of the Board of Supervisors, do hereby certify that the following is a true and correct excerpt from the minutes of the meeting of the Board of Supervisors held on February 1, 2006. These minutes are currently pending approval by the Board:*

**WEST END WATER CO.. PUBLIC SERVICE FRANCHISE EXTENSION. APPROVED**

*(Attached)*



**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the Official Seal of the County of Maricopa. Done at Phoenix, the County Seat, on February 22, 2006.

*Lori Pacini*

**Deputy Clerk of the Board of Supervisors**

cc: JC Campbell, President  
County Counsel  
File (F17643)

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK****FORMAL SESSION**  
**February 1, 2006****FRANCHISE – WEST END WATER CO.**

Chairman Stapley called for a public hearing to solicit comments on the application filed by West End Water Co., for a public service franchise extension to construct, maintain and operate a domestic water distribution system for a period of 25 years beginning February 22, 2004, or for a period of one year after the franchised area or a portion thereof is annexed by a municipality, whichever is shorter, for the supplying of this service along, upon, under and across public highways, roads, alleys and thoroughfares (excepting State highways) within that portion of Maricopa County, Arizona, known and described as follows, to-wit: (F23155)

Northwest ¼ of Section 25, Township 5 North, Range 3 West, of the Gila and Salt River  
Base and Meridian, Maricopa County, Arizona.

No protests having been received and no speakers coming forth at the Chairman's call, motion was made by Supervisor Wilson, seconded by Supervisor Brock, and unanimously carried (5-0) to grant the said franchise extension as applied for and to impose such restrictions and limitations upon said applicant as to the use of such public highways, roads, alleys and thoroughfares as may be deemed best for the public safety and welfare and to include in such franchise the statutory provisions set forth in Title 40, Chapter 2, Article 4, A.R.S., 1956, requiring the grantee of said franchise to pay such expenses, damages and compensations, if any, as may result from the use and operation of said franchise and as in said statute specified.

## BEFORE THE BOARD OF SUPERVISORS

OF

## MARICOPA COUNTY, STATE OF ARIZONA

IN THE MATTER OF THE APPLICATION OF )

West End Water Co )

FRANCHISE )

\_\_\_\_\_  
FOR A FRANCHISE

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF MARICOPA COUNTY, STATE OF ARIZONA, THAT:

WHEREAS, West End Water Co. hereinafter designated as the Grantee, praying for the right, privilege, license and franchise to construct, maintain and operate a Public Service Franchise for a portion of Maricopa County, Arizona bearing date of February 22, 2004, for a period not to exceed twenty-five (25) years or for a period of one (1) year after the franchised area or a portion thereof is annexed by a municipality, whichever is shorter, for the supplying of this service, along, upon, under and across public highways, roads, alleys and thoroughfares (excepting State Highways).

Grantee doing business in Maricopa County, Arizona bearing date of February 1, 2006, praying for the right, privilege, license and franchise extension for a domestic water distribution system for a portion of Maricopa County, Arizona to provide a domestic water distribution system within that portion of Maricopa County, Arizona, known and described as follows, to-wit:

Northwest ¼ of Section 25, Township 5 North, Range 3 West, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

and not within the confines of any incorporated city or town, and under such restrictions and limitations and upon such terms as the Board of Supervisors may provide, not inconsistent with the laws of the State of Arizona, or the orders and rules of the Corporation commission of the State of Arizona, and that the Board take such proceedings herein as is provided by laws of the State of Arizona; and

WHEREAS, upon filing said application, the said Board of Supervisors on the 4<sup>th</sup> day of January 2006 ordered that public notice of the intention of said Board to make such grants be given by publishing a notice in the official newspaper of Maricopa County, published in the County of Maricopa, State of Arizona, and that 9:00 a.m., on the 1<sup>st</sup> day of February 2006, at the meeting room of said Board of Supervisors located at 205 West Jefferson Street, in the City of Phoenix, Arizona, be set as the time and place of hearing the said application; and

WHEREAS, the said application coming on regularly for hearing on said day and it appearing by the affidavit of the duly authorized agent of the said time and place set for the consideration of such application has been published for at least once a week for the three-week period prior to said date set forth herein, to-wit:

In the issues of the said newspaper on January 12, January 19, and January 26, 2006, and it appearing that no sufficient protest has been filed by the qualified electors of the said County petitioning said

Board of Supervisors to deny such license and franchise, and it further appearing the best interests of Maricopa County will be served by the granting of said application and the franchise referred to therein;

NOW, THEREFORE, the Board of Supervisors of Maricopa County, State of Arizona, acting on behalf of said County does hereby grant unto West End Water Co., doing business in Maricopa County, Arizona, subject to the terms, conditions and limitations hereinafter contained, the right, privilege, license and franchise extension to construct, maintain and operate a domestic water distribution system, for a period of not to exceed twenty-five (25) years beginning February 22, 2004, or for a period of one (1) year after the franchised area is annexed by a municipality, whichever is shorter, for the supplying of this service along, upon, under and across the public highways, roads, alleys and thoroughfares (excepting State highways) within that portion of Maricopa County, Arizona, hereinabove described, under such restrictions and limitations and upon such terms as this Board at any time may provided, not inconsistent with the laws of the State of Arizona, or the orders and rules of the Corporation Commission of the State of Arizona, specifically providing, however, that:

- 1) All rights hereunder are granted under the express condition that the Board of Supervisors of said Maricopa County shall have the power at any time to impose such restrictions and limitations and to make such regulations on such highways, roads, and thoroughfares as may be deemed best for the public safety, health, welfare and convenience.
- 2) All rights hereby granted shall be exercised so as to not interfere or conflict with any easements or rights-of-way heretofore granted by said Board of Supervisors and now in force.
- 3) All rights hereby granted shall be exercised so as not to interfere or conflict with any easement, either public or private, of whatsoever nature, which has been acquired in or to the proper use of said highway, roads, and thoroughfares, or any portion thereof.
- 4) All rights hereby granted shall be exercised so as not to interfere or conflict with or endanger in any way the proper use by the public of said highways, roads, and thoroughfares, or any portion thereof.
- 5) That the said Grantee shall bear all expenses incurred including damages and compensation for the alteration of the course, direction, surface, grade or alignment of any of the said highways, roads and thoroughfares necessarily made by the said grantee for the purpose of this franchise; that said grantee will maintain his equipment from time to time as may be needed, without the necessity of notice from Maricopa County. In the event the said grantee shall fail to make any repairs within ten days from the time same becomes necessary, then Maricopa County may cause the same to be made, and said grantee agrees to pay Maricopa County the cost thereof.
- 6) That all property of the franchise be installed and operated by the said grantee and shall be placed, removed or relocated, initially and throughout the term of this franchise, along, in, over, under and across the said highway, roads and thoroughfares, in such a manner and location as the Board of Supervisors or its duly authorized agents may designate. Such placement, removal or relocation shall be done at the sole expense of the grantee upon a determination by the Board of Supervisors of Maricopa County that such placement, removal or relocation is necessary.

If the grantee fails or refuses to so remove or relocate, Maricopa County may so remove or relocate, at the sole expense of grantee, such expense to include any and all damages and compensation of whatsoever nature arising therefrom.

In this section the term "property" includes conduits, pipe, wires, poles, or other structures and appliances used to supply or deal in gas, electricity, lights, water, heat, refrigeration, power, telephones, telegraph, television and other public utilities.

Any finding or determination made by the Board of Supervisors pursuant hereto shall be final and binding upon the grantee whether or not such findings or determinations relates to the requirements of public safety or welfare, the use of public roads or the need for proposed improvements, and whether or not the function to be served by such removal or relocation is of a governmental or proprietary nature.

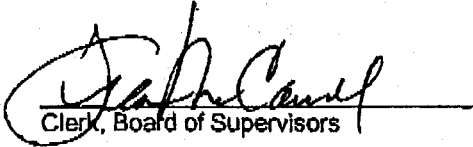
- 7) That said grantee shall indemnify and save harmless, the said County of Maricopa from all costs, expense and liabilities in connection with the granting of this franchise and exercise of the same by them.
- 8) That the rights of any person claiming to be injured in any manner by the maintenance of said projects and equipment shall not be affected hereby.
- 9) That the terms and conditions of this franchise shall inure to the benefit of, and be binding upon, all the heirs and assigns of the said Grantee.
- 10) That the franchise extension and privilege herein granted shall not be deemed to be exclusive and the said Board of Supervisors hereby expressly reserves the right and power to grant from time to time similar franchises and privileges over the same territory and highways, roads and thoroughfares.
- 11) This franchise extension is granted upon the express condition that the Certificate of Convenience and Necessity be procured from the Corporation Commission of the State of Arizona and the Certificate of Assured Water Supply be procured from the Arizona Department of Water Resources and proof thereof submitted to the Board of Supervisors within six months from the date of granting of this franchise; and if such Certificates are not granted within six months from said date, then this franchise to be void, otherwise to be in full force and effect for the time herein specified.
- 12) All materials and construction methods used with the public right-of-way shall conform to the applicable standards, specifications and special provisions currently in effect in Maricopa County.
- 13) The Franchise holder shall obtain a construction permit from the Office of the County Engineer prior to construction of any facilities in the public right-of-way.



DATED this 1<sup>st</sup> day of February 2006.

  
Chairman, Board of Supervisors

ATTEST:

  
Clerk, Board of Supervisors